

REMARKS

I. Amendments to Specification

The specification has been amended to recite the required cross-referencing under 35 U.S.C. §120.

As permitted by 37 C.F.R. §1.63(d)(1)(iv), a copy of the originally executed declaration filed in the grandparent application, i.e., U.S. Patent Application Serial No. 09/077,719, filed June 8, 1998 (the “’719 application”), now US 6,369,085 (the “’085 patent”), is being submitted for this continuation application. The grandparent ‘719 application is a 371 of PCT/SE98/00974, filed May 25, 1998. The PCT filing date was incorrectly provided as “May 5, 1998” in the originally executed declaration submitted for the grandparent ‘719 application. The correct PCT filing date is May 25, 1998. This error was identified after issuance of the ‘085 patent, and it was corrected by a Certificate of Correction. A copy of the Certificate of Correction issued in the ‘085 patent is attached hereto. The cross-referencing information added to the specification contains the corrected PCT filing date, i.e., May 25, 1998.

II. Amendments to the Claims

The claimed matter of the subject application is directed to those embodiments which were cancelled in the grandparent application’719 application for the sake of advancing the ‘719 application to allowance. Specifically, during the examination of the ‘719 application, the claims were limited to the embodiment or original claim 3. The ‘719 application thereafter matured into the ‘085 patent.

Applicants submit that the limitation of the claimed subject matter of the ‘719 application to the embodiment of original claim 3 was not done in acquiescence of any objection or rejection

relating to patentability of the canceled claims or deleted embodiments. Rather, the claims of the '719 application were so amended to advance the '719 application to allowance so that Applicants could enjoy the benefits, without delay, conferred by a U.S. patent for allowable subject matter.

Therefore, by this continuation application, Applicants wish to resume examination of the claimed subject matter of the '719 application that was previously canceled or deleted.

Applicant submit that they are entitled to patent protection as broadly supported by the application as originally filed. As such, the pending claims of this continuation application are directed to the magnesium salt of *S*-omeprazole trihydrate, pharmaceutical compositions comprising the magnesium salt of *S*-omeprazole trihydrate, a pharmaceutically acceptable carrier and optionally one or more additional active ingredients and method of treating gastric related condition by administering the claimed compounds.

No new matter is introduced by any of the claim amendments.

Upon entry of this Preliminary Amendment, claims 1, 2, 14, 17 and 18 are pending. Any fees due in connection with this Preliminary Amendment should be charged to Deposit Account No. 23-1703..

Dated: September 25, 2003

Respectfully submitted,



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Attachment: Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,369,085 B1
DATED : April 9, 2002
INVENTOR(S) : Cotton et al.

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It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Title page.

Item [22] PCT Filed, delete "May 5, 1998" and insert therefor -- May 25, 1998 --.

Column 10.

Line 42, insert -- of -- after "S-omeprazole".



Signed and Sealed this
Eighth Day of April, 2003

A handwritten signature in black ink, which appears to read "James E. Rogan", is written over a horizontal line.

JAMES E. ROGAN
Director of the United States Patent and Trademark Office